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7 SINCO TECHNOLOGIES PTE LTD.,
8 Plaintiff,
9 v.
10 SINCO ELECTRONICS (DONGGUAN)
11 CO. LTD., et al.,
12 Defendants.

Case No. [17-cv-05517-EMC](#)

**ORDER GRANTING DEFENDANTS'
MOTION FOR ADMINISTRATIVE
RELIEF, AND DENYING PLAINTIFF'S
MOTION TO EXCLUDE EXPERT
TESTIMONY**

Docket Nos. 384, 386

14 Plaintiff has filed a *Daubert* Motion to Strike the Expert Report of Defendants' Damages
15 Expert Henry Kahrs and to Preclude Mr. Kahrs and Adrian Fleissig from Testifying at Trial.
16 Docket No. 384. The motion requests that the Court exclude Defendants' damages expert from
17 testifying at trial. Defendants have moved, under Local Rule 7-11, for administrative relief on
18 Plaintiff's *Daubert* motion, arguing that it was premature under the Court's third amended case
19 management order ("CMO"). Docket No. 386.

20 The Court issued the CMO on February 1, 2021. Docket No. 380. It required the parties
21 to submit a joint pretrial conference statement at least 21 days prior to the final pretrial conference.
22 CMO at 3. The final pretrial conference is scheduled for October 5, 2021. *Id.* at 1. With respect
23 to witnesses, the statement requires the following:

24 **Witnesses.** The following information should be provided as an
25 appendix to the joint pretrial conference statement. For each party, a
26 list of all witnesses likely to be called at trial, including those
27 appearing by deposition. For each witness, there should be a short
statement of the substance of his or her testimony and an estimate
regarding the length of testimony (including direct and cross-
examination). If the witness is an expert witness, the short statement
should clearly state the expert's theories and conclusions and the
bases therefor; in addition, the expert's curriculum vitae and report

1 (if any) should be attached. ***If there are objections to a live***
2 ***witness's testimony, whether in whole or in part, that objection***
3 ***should be raised through a motion in limine.*** For objections to
4 deposition testimony, see Part B.8, *infra*.

5 *Id.* at 4 (emphasis added). The CMO prescribes the following procedure for filing motions in
6 limine:

7 **Motions in Limine.** The following procedure should be used with
8 respect to motions in limine. *At least thirty-two (32) days before the*
9 *pretrial conference, serve – but do not file – the moving papers.* At
10 least twenty-five (25) days before the conference, serve – but do not
11 file – the oppositions. When the oppositions are received, the
12 moving party should collate the motion and opposition together,
13 back to back, and then file the paired sets (each under separate
14 cover) at least twenty-one (21) days prior to the conference.

15 *Each motion in limine should address a single topic and contain no*
16 *more than seven pages of briefing per side.* Reply briefs are not
17 permitted. Usually, each party or side should not need to file more
18 than five motions in limine. Each party shall number its motions in
19 limine in order of importance, the first being the most important.

20 *Id.* at 6 (emphasis added).

21 The Court therefore **DENIES** Plaintiff's *Daubert* motion, **without prejudice**, because it is
22 premature and not in compliance with the CMO directing that motions to exclude testimony
23 should be brought as pretrial motions in limine. If Plaintiff wanted to bring an early *Daubert*
24 motion, it was incumbent upon Plaintiff to seek leave from this Court to do so. Defendants'
25 motion for administrative relief is **GRANTED**. The Court **directs** Plaintiff to serve its *Daubert*
26 motion on Defendants along with any other motions in limine in accordance with the CMO absent
27 leave to do otherwise.

28 This order disposes of Docket Nos. 384 and 386.

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30 **IT IS SO ORDERED.**

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32 Dated: April 30, 2021

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